

2009 DRAFTING REQUEST

Bill

Received: 03/01/2010

Received By: rkite

Wanted: As time permits

Companion to LRB:

For: Alan Lasee (608) 266-3512

By/Representing: Jennifer Esser

May Contact:

Drafter: rkite

Subject: Nat. Res. - parks and forestry
Local Gov't - munis generally

Addl. Drafters:

Extra Copies: MES

Submit via email: YES

Requester's email: Sen.Lasee@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Annexation of state trail property

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L
/1	rkite 03/03/2010	bkraft 03/12/2010	rschluet 03/15/2010	_____	lparisi 03/15/2010	mbarman 04/07/2010	

FE Sent For: "/1" @ intro. 4/8/10

<END>

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For: **Alan Lasee (608) 266-3512**

By/Representing: **Jennifer Esser**

This file may be shown to any legislator: **NO**

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/?	rkite	/1bjk 3/12		_____ _____			
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FE Sent For:

<END>

Kite, Robin

From: Esser, Jennifer
Sent: Thursday, February 25, 2010 10:52 AM
To: Kite, Robin
Subject: FW: Possible amendment to SB-172

Robin,

Hope this email clarifies things for you from a drafting standpoint.

Take care,

Jen

-----Original Message-----

From: Lasee, Alan
Sent: Wednesday, February 24, 2010 12:29 PM
To: Sen.Lasee
Subject: FW: Possible amendment to SB-172

From: Glen R. Schwalbach[SMTP:GLENSCHWALBACH@NETZERO.COM]
Sent: Wednesday, February 24, 2010 12:21:52 PM
To: Lasee, Alan
Cc: rrvoms2@msn.com; dotocashman@aol.com; wtownsl@frontiernet.net;
ARossmeissl@herrlingclark.com
Subject: RE: Possible amendment to SB-172 Auto forwarded by a Rule

Senator Lasee and Jen, thanks for the response. I had heard from Vicky about the suggestion for a separate bill. I think it's great.

Some of the reasoning for preventing cities and villages from annexing a trail are presented below in my original email. The annexing of trails which extend beyond the general boundaries of a city or village should not allow the city or village to claim that the town land bordering the trail is now contiguous and meets that test for annexation.

Trails are usually created to preserve a slice of natural countryside while allowing the public to experience nature without damaging the resource with random access. Trails often go through towns. If a city or village annexes a trail and then can annex land along it and laterally from it, three things usually would result.

First, the trail is encroached upon much sooner than would happen with conventional city or village growth.

Second, the affected town would usually be split into separate areas, creating greater costs to serve the residents' needs for road maintenance, snow plowing, etc. Many special agreements would have to be initiated to specify which municipality will be responsible for what roads which are now along the new, much extended and probably sliver-like common borders. Residents would also be confused because of the likely unpredictability and randomness of new borders. This includes confusion by anyone in the area trying to contact emergency services, dispatch emergency services and respond to emergency calls.

Third, costs for the city or village would likely increase disproportionately to service such expansions because of the ragged footprint which would be created.

There could also be another result of trail annexation. This scheme could be used by the city or village to stymie a town's desire and obligation to meet its citizens' plans to use or develop their own land within reason. A city or village could annex into the heart of a town via a trail and zone it restrictively to set the land into a "holding" pattern for years. They do this now through extra-territorial rights. But with trail annexation they could extend that type of jurisdiction way beyond the current 3-mile or 1 1/2-mile limits now in the law.

Annexations by cities and villages should be done as a logical, predictable, and economical extension of their municipal services to match the desires of citizens for such services. Annexations of trails could be another way for cities and villages to put landowners and towns into limbo by closing down appropriate land uses and development, reducing land values of citizens, and stagnating the tax base of towns.

We appreciate your consideration.

Glen R. Schwalbach, P.E., NSPE Fellow
PROBITY Consulting, LLC
1090 Moonriver Dr., De Pere, WI 54115
Cell: 920-680-2436, Office/Home: 920-532-6330

----- Original Message -----

From: "Lasee, Alan" <Alan.Lasee2@legis.wisconsin.gov>
To: "Glen R. Schwalbach" <glenschwalbach@netzero.com>
Subject: RE: Possible amendment to SB-172
Date: Tue, 23 Feb 2010 15:28:59 -0600

Hi Glen,

I just tried calling but didn't get any response. I wanted to clue you in as to SB 172 and your amendment idea. First, Alan spoke to Rick at the Towns about this, and the goal of the association is to get this through as clean as possible before the session expires. As a result, Alan is happy to do a stand alone bill (I did communicate this to Vicky at the public hearing last week).

In speaking with our drafter, she would like a little more information as to why folks are concerned with the annexation (or why you want a stand alone bill)...this will really help her to be able to pinpoint exactly how to draft this. If you want me to speak to Rick, I certainly can. I am hoping you can provide me with that info so we can get working on it.

Thanks,

Jen
Office of Sen. Lasee

-----Original Message-----

From: Glen R. Schwalbach [mailto:glenschwalbach@netzero.com]
Sent: Thursday, February 04, 2010 2:12 PM
To: Sen.Lasee
Cc: Sen.Holperin; Sen.Schultz
Subject: Possible amendment to SB-172

Senator, I heard your announcement to retire from the legislature. Congratulations on your past service to us all.

As you may recall, I am on the board for the the Town of Rockland. We have been concerned with cities requesting the DNR to let them annex State trails to get a contiguous connection into or through towns. We are aware of one such situation. There might be towns throughout the State which could be faced with this situation in the future. The DNR staff does not think trails should be annexed this way but they say their decision-makers might think otherwise.

Could you initiate an amendment to SB-172 to prevent the State from agreeing to let a city or village annex a state-owned trail?

As you know, trails are developed and maintained by the state, often, with local contributors of time and/or money. The trails are intended for the general public's recreational use and to allow the public to interact

. with nature. The trail land is often donated or purchased to provide that access while preserving a rural or
woodland environment to enjoy. It is contrary to this purpose and, when donors were involved, contrary to the intent of those donors, to use them for city sprawl and as a sort of loophole in current annexation law.

SB-172, as now proposed, may encourage use of this tactic since it allows the contiguous requirement to be more scrutinized. Thus, SB-172 may encourage cities and villages to find more options and create this sort of contiguous situation.

SB-172 is very important for giving citizens and their reps a voice in annexation proceedings. So, we don't want to slow up the bill but an amendment to address the above would reinforce its intent.

Thanks for your time.

Glen R. Schwalbach, P.E., NSPE Fellow
PROBITY Consulting, LLC
1090 Moonriver Dr., De Pere, WI 54115
Cell: 920-680-2436, Office/Home: 920-532-6330



State of Wisconsin
2009 - 2010 LEGISLATURE

RM run
LRB-4444
D
RNK:.....
Lbjk

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA
x-ref

In 3/3

D-Note

- 1 AN ACT ^{gen.}...; relating to: annexations of trails designated by the Department of
2 Natural Resources.

Analysis by the Legislative Reference Bureau

- The ice age national scenic trail is established under federal law. That trail,
> together with the lands adjacent to that, are designated a state scenic trail known
> as the Ice Age Trail. Under current law, the Department of Natural Resources (DNR)
also has authority to designate other trails for property under its control and may
designate a system of state trails as part of the state park system. This bill prohibits
any state agency from petitioning, or joining in a petition, on behalf of this state to
annex any state-owned land designated as a trail by DNR to an adjoining
municipality. ^{Trail}

For further information see the *state and local* fiscal estimate, which will be
printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do
enact as follows:*

- 3 SECTION 1. 24.40 (2) of the statutes is renumbered 24.40 (2) (a) and amended
4 to read:

- 5 24.40 (2) (a) Every Except as provided under par. (b), every such board,
6 commission, department and agency may petition or join in a petition for and on

1 behalf of the state as the owner of such property to annex or detach the same or any
2 part or parts thereof to or from an adjoining municipality.

History: 1985 a. 297 s. 76.

3 **SECTION 2.** 24.40 (2) (b) of the statutes is created to read:

4 24.40 (2) (b) No board, commission, department, or agency of this state may
5 petition or join in a petition for or on behalf of the state to annex state-owned land
6 designated as a trail, or part of a trail, by the department of natural resources under
7 s. 23.115, 23.17, or 23.175, to an adjoining municipality.

8 (END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

Date

LRB-4444/dn

RNK:.....

①
Lbjk

> Current law authorizes a state agency to petition, or join in a petition, on behalf of this state to annex to, or detach from, a municipality any property that is owned by the state. This draft limits the scope of that authority by prohibiting a state agency from petitioning or joining in a petition on behalf of this state to annex a trail designated by the Department of Natural Resources to an adjoining municipality. It does not affect a state agency's authority under current law to petition, or join in a petition, to detach such property from a municipality. Is this consistent with your intent?

The prohibition created in this draft applies to state trails designated under either s. 23.115 or 23.175 as well as to the Ice Age Trail designated under s. 23.17. If you did not intend to include all of these trails within the prohibition, please let me know and I will redraft accordingly.

Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4444/1dn
RNK:bjk:rs

March 15, 2010

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Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

Barman, Mike

From: Kite, Robin
Sent: Wednesday, April 07, 2010 9:29 AM
To: Barman, Mike
Subject: LRB-4444

Mike:

Could you please jacket LRB-4444 for Sen. Alan Lasee?

Thanks.

Robin